



Personal Service Contract Review Board
Form PSCRB-003
**PETITION FOR RELIEF FROM
BIDDING AS A PROCUREMENT METHOD
(INDEPENDENT CONTRACTOR)**

Agency: **Mississippi Division of Medicaid**

Agency Contact Name: **Matthew Nassar**

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Agency Contact Fax Number: **n/a**

Date Form Completed by Agency: **9/14/2015**

Date Form Submitted to PSCRB staff: **9/14/2015**

Requested PSCRB Meeting Date: **October**

Briefly describe the proposed scope of services: **The Mississippi Division of Medicaid (DOM) is seeking a qualified contractor to provide administration of the agency's Preferred Drug List (PDL), Supplemental Rebate (SRA), Pharmacy Prior Authorization (PA), and Complex Pharmaceutical Oversight Program.**

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1. Petition for relief from bidding (the use of Invitation for Bids) as a procurement method may be requested for one of the reasons listed below. Check the reason that prevents your agency from using Invitation for Bids (IFB) as a procurement method for this service:

- ☐ Federal law has established limitations on the use of competitive bidding for the personal or professional contracts the agency is seeking to procure;
- ☐ The agency is required to hire professionals whose members are prohibited from bidding by the rules of professional conduct promulgated by the regulating agency or agencies for that professional; or
- ☒ Competitive bidding will be counterproductive to the business of the agency.

2. Provide a detailed explanation of the reason(s) why a procurement method other than bidding (IFB) is requested (attach supporting documentation including, but not limited to, any identified laws, orders, rules, or regulations issued by a governing body):

DOM believes that using the competitive sealed bid procurement method will be counterproductive to the business of the agency, including but not limited to DOM's ability to provide quality healthcare coverage to Medicaid beneficiaries. Sealed bids are typically used to procure high cost items with easily identifiable characteristics while seeking the lowest price. Price is a very important factor; however, when selecting a Medicaid vendor, it is not the only factor. In *LogistiCare v. Medicaid*, the Court stated that "[w]hile LogistiCare claims the lowest bidder should have received

This form and all attachments should be submitted electronically to the PSCRB staff via the PSCRB e-system, using the four digit agency number and six digit board meeting date as the contract number. For example, if the agency's four digit agency number is 1234 and the board meeting date is August 18, 2015, then the contract number for purposes of this form would be submitted as 1234081815.



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the award, the Court agrees with MDOM, believing that what is in the best interest of the State of Mississippi hinges on more than just a dollar amount.” Order and Opinion, Chancery Court of the First Judicial District of Hinds County, Mississippi, Case No. 25CH1:14-cv-000026. DOM relies upon experienced, knowledgeable contractors of highly technical and clinical backgrounds to enable it to provide pharmacy services in a cost efficacious manner to more than 750,000 Medicaid beneficiaries in Mississippi. Accordingly, DOM awards the contract to a vendor with the best overall score, while taking into consideration the lowest costs among other variables.

The Request for Proposal (RFP) method of procuring a vendor better suits the needs and requirements of the agency. A RFP allows the agency to request specifications, such as work plans, staffing, and reporting requirements expressed in detail. Additionally, the agency is able to check references. RFPs are evaluated by a group of experts who participate in a structured process and critically review proposals.

Additionally, a competitive bid would be counterproductive because it would make it difficult for DOM to carry out its mission of responsibly providing *quality* health coverage for vulnerable Mississippians. When *quality healthcare* is the mission of an agency, a bid does not present all of the necessary and relevant information regarding the services being procured.

DOM must effectively and successfully manage every detail of the PDL/SR/PA/Complex Pharmaceutical Oversight Program services in order to ensure compliance with a myriad of state and federal laws, regulations, policies, procedures, and guidelines. It is imperative that the vendor has relevant clinical expertise, experience in providing the services, and be knowledgeable regarding: Medicaid pharmacy preferred drug lists; the Centers for Medicaid & Medicare Services (CMS) requirements regarding drug coverage for Medicaid; negotiating, invoicing, handling disputes, and managing the supplemental rebate program; providing pharmacy prior authorizations while complying with CMS requirements; and, providing complex pharmaceutical oversight services for DOM.

DOM believes using the sealed bid method to procure PDL/SR/PA/Complex Pharmaceutical Oversight Program services would be detrimental to the agency, negatively impact the mission of providing quality healthcare to vulnerable Mississippians, and compromise DOM’s pharmacy program.

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3. Petition for relief from bidding is granted; a competitive procurement procedure for selecting the vendor must be established. The PSCRB may audit your records to ensure competitive procedures were used to procure the required service. If the request for petition for relief from bidding (IFB) is granted, please indicate the method of procurement that will be used:

☒ Request for Proposals

☐ Request for Qualifications

☐ Other (Please explain):

4. When will the procurement be issued and/or advertised? **Anticipated January 2016**
5. When will the vendor(s) be selected? **Anticipated May 2016**
6. How many contract(s) will be issued as a result of the procurement? **One**
7. What evaluation factors will be used and what is the weight/percentage of each factor?

A maximum of 1000 points will be awarded in the evaluation of the responses to this RFP. The responses are evaluated in two (2) phases, technical and business. The technical phase scoring breakdown is for a maximum score of 700 points, broken down as follows: Executive Summary/Understanding of the Project (20 points); Corporate Background and Experience (100 points); Organization and Staffing (100 points); Methodology (280 points); Project Management (100 points); and Work Plan and Schedule (100 points). A maximum of 300 points will be assigned to the lowest and best acceptable proposal. All business proposals will be assigned points based on the following formula:

$$\frac{X}{Y} * 300 = Z$$

X = lowest bid price
Y = Offeror's bid price
Z = assigned points

The best overall evaluated score out of 1000 will be recommended for award of the contract.

8. What is the anticipated term of the contract? **October 1, 2016 – September 30, 2019**

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9. Will the contract include renewal terms? If yes, how many? **Yes; 2**
10. What is the anticipated total amount of funds expended under the contract? **Based on historical knowledge, DOM spent approximately \$1,620,000 on similar or related services. DOM cannot state with particularity the total amount of funds to be expended under this contract.**
11. Will the contract negate the need for an existing PIN/WIN? If so, please explain how the contract is more cost effective: **No**
12. Please indicate whether procurement is associated with any new, continued, expanded, or terminated program(s): **The Preferred Drug List (PDL), Supplemental Rebate (SRA), and Pharmacy Prior Authorization (PA) services are programs to be continued. DOM is requesting to add the Complex Pharmaceutical Oversight Program to assist with management of high cost medications used to treat expensive highly targeted therapies for a specified patient population.**
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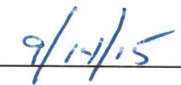
13. Has relief from bidding of this service been previously requested? ☒ No ☐ Yes

If "Yes" please explain and attach the previous approval or denial. If denied, please explain why this request is different. What was the date of the previous PSCRB meeting when this was considered by the Board?



Agency Head Signature

In His Official Capacity as Executive Director



Date

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